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2. Show evidence of a close reading on the page.
3. Write a one-page reflection in your WN

Free Speech Versus Kids and Violent Video Games

Source: *San Francisco Chronicle*/ Monday, April 26, 2010

The Supreme Court will decide whether free speech rights are more important than helping parents keep violent material away from children.

The justices agreed Monday to consider reinstating California's ban on the sale or rental of violent video games to minors, a law the 9th U.S. Circuit Court of Appeals in San Francisco threw out last year on grounds that it violated minors' constitutional rights.

California Gov. Arnold Schwarzenegger, who signed the law in 2005, said he was pleased the high court would review the appeals court decision. He said, "We have a responsibility to our kids and our communities to protect against the effects of games that depict ultra-violent actions, just as we already do with movies."

However, the judge who wrote the decision overturning the law said at the time that there was no research showing a connection between violent video games and psychological harm to young people.

The Supreme Court's decision to hear the case comes only a week after the high court voted overwhelmingly to strike down a federal law banning videos showing animal cruelty. The California case poses similar free speech concerns, although the state law is aimed at protecting children, raising an additional issue.

California's law would have prohibited the sale or rental of violent games — those that include "killing, maiming, dismembering or sexually assaulting an image of a human being" — to anyone under 18. It also would have created strict labeling requirements for video game manufacturers. Retailers who violated the act could have been fined up to \$1,000 for each violation.

Lawyer Stephen S. Smith, who has represented several video game companies in court, said the Supreme Court may use this case to explain how far lawmakers can go when trying to regulate depictions of violence. "There is a fair amount of First Amendment law in the area of sexual explicitness and obscenity," he said. "But there is not nearly as much law on the issue of violence and what may be restricted or not under the First Amendment in that arena."

The California law never took effect, and was challenged shortly after it was signed by Schwarzenegger. A U.S. District Court blocked it after the industry sued the state, citing constitutional concerns.

Opponents of the law note that video games already are labeled with a rating system that lets parents decide what games their children can purchase and play. They also argue that video games — which the Entertainment Software Association says are played in 68 percent of American households — are protected forms of expression under the First Amendment to the Constitution.

But supporters of the law note that the Supreme Court has upheld laws keeping minors from buying or having access to pornography, alcohol and tobacco. And the California law does not ban parents from purchasing or buying the video games for their children.

Michael D. Gallagher, president of the Entertainment Software Association, said video games should get the same First Amendment protections as the court reaffirmed last week for videos.

Given last week's ruling on videos showing animal cruelty, "we are hopeful that the court will reject California's invitation to break from these settled principles by treating depictions of violence, especially those in creative works, as unprotected by the First Amendment," he said.

Leland Yee, the California state senator who wrote the video game ban, said the Supreme Court obviously doesn't think the animal cruelty video ban and the violent video game ban are comparable. If the justices thought that, he said, they would not be reviewing the 9th Circuit's decision to throw out the video game ban.

"Clearly, the justices want to look specifically at our narrowly tailored law that simply limits sales of ultra-violent games to kids without prohibiting speech," said Yee, a San Francisco Democrat.

California lawmakers approved the law, in part, by relying on several studies suggesting violent games can be linked to aggression, anti-social behavior and desensitization to violence in children. But federal judges have dismissed that research.

"None of the research establishes or suggests a causal link between minors playing violent video games and actual psychological or neurological harm, and inferences to that effect would not be reasonable," Judge Consuelo Callahan said in the 9th Circuit ruling. Callahan also said there were less restrictive ways to protect children from "unquestionably violent" video games.

The supporters of the law say the same legal justifications for banning minors from accessing pornography can be applied to violent video games. They point to recent Federal Trade Commission studies suggesting that the video game industry's rating system was not effective in blocking minors from purchasing games designed for adults.

But courts in other states have struck down similar laws.

The video game industry also argues that approval of California's video game restrictions could open the door for states to limit minors' access to other material on the grounds of protecting children. "The state, in essence, asks us to create a new category of non-protected material based on its depiction of violence," Callahan wrote in the 30-page ruling.

The court will hear arguments in this case in the fall.

Possible WN topics:

- Do you support this proposed law? Why? Why not?
- Do you believe violent video games have a harmful effect on children?
- What arguments would you make against supporters of this law?
- What arguments would you make to opponents to this law?